

Message Text

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MR."RISTAU, RM. 3612, MAIN JUSTICE; MR. CHAMBLEE, RM. 860, SAFEWAY
BLDG; MR. GRAHAM, RM. 736, SAFEWAY BLDG.

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FM SECSTATE WASHDC

TO AMCONSUL HONG KONG

INFO SECDEF

USARMY CID COMMAND

UNCLAS STATE 166928

SECDEF FOR PDASD(C) -- CID COMMAND FOR CIOP-FR

E.O. 11652:N/A

TAGS:CGEN: (U.S. V. SIMMONS)

SUBJECT:ASSISTANCE IN PROSECUTION OF CRIMINAL CASE

SUMMARY:

DOJ, CRIMINAL DIVISION, ANTICIPATES THAT SIMMONS TRIAL COULD
BEGIN BY LATE OCTOBER IF GRAND JURY RETURNS INDICTMENT IN
SEPTEMBER AS EXPECTED. LINCHPIN OF CASE WILL BE RECORDS OF
HK BANKS AND FIRMS, BUT THESE CANNOT BE INTRODUCED IN
EVIDENCE UNLESS CUSTODIANS OF RECORDS IDENTIFY THEM UNDER
OATH, EITHER AT TRIAL OR AT DEPOSITION IN HK. (FOR REASONS
OF ECONOMY, JUSTICE PREFERS LATTER.) COOPERATION OF ALL
FIRMS BANKS ESSENTIAL SINCE U.S. PROBABLY COULD NOT GO FOR-
WARD WITH PROSECUTION OTHERWISE. JUSTICE SUGGESTS INITIAL
APPROACH TO BE MADE THROUGH V.S. BECKER, RHKP, (OFFICE OF
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COMMERCIAL CRIMES), WHO IS FAMILIAR WITH FIRMS INVOLVED AND

FAVORABLE TO U.S. EFFORTS.

1. IF CONGEN CONCURS, PLEASE ASK MR. BECKER TO SOLICIT COOPERATION OF FOLLOWING CONCERNS IN PROVIDING WITNESSES AND ADVISING WHETHER THEY WILL TESTIFY AT TRIAL OR IN HK: CHARTERED BANK, FIRST NATIONAL CITY BANK, WING HANG BANK LTD., DAO HENG BANK LTD., KIN CHENG BANKING CORP., WING ON

BANK LTD., HANG SENG BANK LTD., ZUNG FU CO. (BONAVENTURE HOUSE, LEIGHTON RD.), KEVIN JEWELRY (22 HILTON HOTEL ARCADE, QUEENS RD. CENTRAL), KIMBERELY GEMS LTD. (TAKSHING HOUSE, RM. 402, DES VOEUX RD), AND WOO, KWAN, LEE & LO, SOLICITORS, ALL OF HONG KONG.

2. WITNESS MUST BE OFFICER OF BANK OR FIRM, WHO AS PART OF HIS JOB IS FAMILIAR WITH RECORD KEEPING PROCEDURES OF HIS FIRM OR BANK, AND WHO HAS GENERAL SUPERVISORY RESPONSIBILITY FOR MAINTENANCE OF RECORDS. IN U.S. BANKS, THIS IS FREQUENTLY CHIEF CASHIER OR VP CHARGED WITH SAFEKEEPING OF RECORDS; IN RETAIL FIRMS, IT IS EITHER FULL TIME ACCOUNTANT (IF ONE IS EMPLOYED), OR GENERAL MANAGER OR OTHER PERSON WITH OVERALL SUPERVISORY RESPONSIBILITY.

3. FOR EVIDENCE TO BE ADMITTED, WITNESS MUST BE ABLE TO IDENTIFY PARTICULAR RECORD AS THAT OF HIS FIRM OR BANK, STATE THAT SUCH RECORDS ARE MADE IN THE REGULAR COURSE OF BUSINESS, AND THAT ENTRIES ON EACH RECORD ARE MADE AT OR ABOUT TIME OF TRANSACTION THEY APPEAR TO REFLECT.

4. SCOPE OF QUESTIONS WILL BE LIMITED TO GENUINENESS OF RECORDS, MANNER OF PREPARATION, AND ISSUES BEARING ON QUALIFICATIONS AND CREDIBILITY OF WITNESS. (FYI: LAST CATEGORY MAY INCLUDE CROSS-EXAMINATION AS TO WHETHER WITNESS HAS EVER BEEN CONVICTED OF FELONY OR OTHER CRIME INVOLVING DISHONESTY OR FALSE STATEMENT. HOWEVER, QUESTIONS ARE NORMALLY ROUTINE AND NON-CONTROVERSIAL.) END FYI

5. JUSTICE ESTIMATES DEPOSITION IN HONG KONG WOULD TAKE TWO DAYS PER WITNESS, INCLUDING TIME TO REVIEW RECORDS AND UNCLASSIFIED

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TESTIMONY BEFOREHAND. IF WITNESS TRAVELS TO U.S. TO TESTIFY, ESTIMATE IS 3-5 DAYS, EXCLUDING TRAVEL TIME.

6. BECKER REQUESTED TO ASK EACH FIRM OR BANK WHETHER IT PREFERENCES LOCAL DEPOSITION OR TRAVEL TO U.S. (AT GOVERNMENT EXPENSE), SO COURT MAY SCHEDULE TRIAL ACCORDINGLY. IN EITHER CASE, JUSTICE WILL REVIEW WITH EACH WITNESS THE QUESTIONS HE WILL BE ASKED ON DIRECT AND CROSS EXAMINATION.

IF DEPOSITION PREFERRED, DATE WILL BE SEPTEMBER OR OCTOBER,
1975. TRIAL MIGHT BEGIN LATE OCTOBER OR NOVEMBER.

7. ATTORNEYS FOR U.S. ARE: JAMES GRAHAM, TRIAL ATTORNEY,
FRAUD SECTION, CRIMINAL DIVISION, DEPARTMENT OF JUSTICE,
AND STEVE JORY, ASSISTANT U.S. ATTORNEY, NORTHERN
DISTRICT OF WEST VIRGINIA.

8. PLEASE ADVISE MASTERS, STOKES AND JOHNSON OF CONTENTS
OF THIS TELEGRAM, POINTING OUT, IF NECESSARY, THAT
MESSAGE IS FROM CRIMINAL DIVISION OF JUSTICE, NOT FROM
MR. RISTAU IN CIVIL DIVISION. INGERSOLL

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